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BEFORE THE  
BOARD OF VOCATIONAL NURSING  
AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

5 In the Matter of the Statement of Issues  
6 Against:

Case No. PT-2008-2829

7 DANIEL SCOTT LYNCH  
8 321 Greenberry Drive  
9 La Puente, CA 91744

Applicant for Psychiatric Technician License

10 Respondent.  
11

12 DECISION  
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14 The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of  
15 Vocational Nursing and Psychiatric Technicians as the final Decision in the above-entitled matter.  
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18 This Decision shall become effective on February 12, 2011.

19 IT IS SO ORDERED this 13<sup>th</sup> day of January, 2011.  
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24 John P. Vertido, L.V.N.  
25 President  
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1 EDMUND G. BROWN JR.  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
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7 *Attorneys for Complainant*

8 **BEFORE THE**  
**BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
Against:

12 **DANIEL SCOTT LYNCH**  
13 **321 Greenberry Drive**  
14 **La Puente, CA 91744**  
**Applicant for Psychiatric Technician**  
15 **License**

16 Respondent.

Case No. PT-2008-2829

OAH No. L-2010040450  
**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) is the Executive Officer of the  
22 Board of Vocational Nursing and Psychiatric Technicians. She brought this action solely in her  
23 official capacity and is represented in this matter by Edmund G. Brown Jr., Attorney General of  
24 the State of California, by Michael Brown, Deputy Attorney General.

25 2. Respondent Daniel Scott Lynch (Respondent) is represented in this proceeding by  
26 attorney Fredrick M. Ray, Esq., whose address is 770 The City Drive, Suite 8100, Orange, CA  
27 92868.

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3. On or about April 6, 2009, Respondent filed an application dated February 3, 2009, with the Board of Vocational Nursing and Psychiatric Technicians to obtain an Applicant for Psychiatric Technician License.

## JURISDICTION

4. Statement of Issues No. PT-2008-2829 was filed before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on February 25, 2010. Respondent timely filed his Notice of Defense contesting the Statement of Issues. A copy of Statement of Issues No. PT-2008-2829 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. PT-2008-2829. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. PT-2008-2829.

/ / /

9. Respondent agrees that his Application for Psychiatric Technician License is subject to denial and he agrees to be bound by the Board of Vocational Nursing and Psychiatric Technicians (Board)'s probationary terms as set forth in the Disciplinary Order below.

## CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Vocational Nursing and Psychiatric Technicians. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Vocational Nursing and Psychiatric Technicians may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Respondent Daniel Scott Lynch will be issued a Psychiatric Technician License and will be immediately revoked. However, the revocation will be stayed and the Respondent placed on three (3) years probation on the following terms and conditions.

1. **OBEY ALL LAWS.** Respondent shall obey all federal, state and local laws, including all statutes and regulations governing the license. Respondent shall submit, in writing, a full and detailed account of any and all violations of the law, including alleged violations, to the Board within five (5) days of occurrence.

To ensure compliance with this condition, Respondent shall submit fingerprints through the Department of Justice and Federal Bureau of Investigation within thirty (30) days of the effective date of the decision, unless the Board determines that fingerprints were previously submitted by the Respondent to the Board.

Respondent shall also submit to the Board a recent 2" x 2" photograph of himself within thirty (30) days of the effective date of the decision.

If Respondent is under a criminal court order, including probation or parole, and the order is violated, it shall be deemed a violation of these probation conditions.

2. **COMPLIANCE WITH PROBATION PROGRAM.** Respondent shall fully comply with the conditions of probation established by the Board and shall cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Probation Program.

Upon successful completion of probation, the Respondent's license will be fully restored.

3. **SUBMIT WRITTEN REPORTS.** Respondent shall submit or cause to be submitted, under penalty of perjury, any written reports, declarations and verification of actions as required by the Board or its representatives. These reports or declarations shall contain statements relative to Respondent's compliance with all the conditions of the Board's Program. Respondent shall immediately execute all release of information forms as may be required by the Board or its representatives.

1 In the first report, Respondent shall provide a list of all states and territories where he has  
2 ever been licensed as a vocational/practical nurse, psychiatric technician, or registered nurse.  
3 Respondent shall provide information regarding the status of each license and any change in  
4 license status during the period of probation. Respondent shall inform the Board if he applies for  
5 or obtains a new nursing or psychiatric technician license during the period of probation.

6 Respondent shall provide a copy of the Board's decision to the regulatory agency in every  
7 state and territory in which he has applied for or holds a vocational/practical nurse, psychiatric  
8 technician and/or registered nurse license.

9 **4. NOTIFICATION OF ADDRESS AND TELEPHONE NUMBER CHANGE(S).**

10 Respondent shall notify the Board, in writing, within five (5) days of any change in address or  
11 telephone number(s).

12 Respondent's failure to claim mail sent by the Board may be deemed a violation of these  
13 probation conditions.

14 **5. NOTIFICATION OF RESIDENCY OR PRACTICE OUTSIDE OF STATE.**

15 Respondent shall notify the Board, in writing, within five (5) days, if he leaves California to  
16 reside or practice in another state. Periods of residency or practice outside of California shall not  
17 apply toward a reduction of this probation time period. If Respondent resides or practices outside  
18 of California, the period of probation shall be automatically extended for the same time period he  
19 resides or practices outside of California. The Respondent shall provide written notice to the  
20 Board within five (5) days of any change of residency or practice.

21 Respondent shall notify the Board, in writing, within five (5) days, upon his return to  
22 California.

23 **6. MEETINGS WITH BOARD REPRESENTATIVE(S).** Respondent shall appear  
24 in person at meetings as directed by the Board or its designated representatives.

25 **7. NOTIFICATION TO EMPLOYER(S).** When currently employed or applying for  
26 employment in any capacity in any health care profession, Respondent shall notify his employer  
27 of the probationary status of Respondent's license. This notification to the Respondent's current  
28 health care employer shall occur no later than the effective date of the Decision. The Respondent

1 shall notify any prospective health care employer of his probationary status with the Board prior  
2 to accepting such employment. At a minimum, this notification shall be accomplished by  
3 providing the employer or prospective employer with a copy of the Board's Accusation and  
4 Disciplinary Decision.

5 The Health Care Profession includes, but is not limited to: Licensed Vocational Nurse,  
6 Psychiatric Technician, Registered Nurse, Medical Assistant, Paramedic, Emergency Medical  
7 Technician, Certified Nursing Assistant, Home Health Aide, and all other ancillary technical  
8 health care positions.

9 Respondent shall cause each health care employer to submit to the Board all performance  
10 evaluations and any other employment related reports as required by the Board. Respondent shall  
11 notify the Board, in writing, of any difficulty in securing employer reports within five (5) days of  
12 such an event.

13 Respondent shall notify the Board, in writing, within five (5) days of any change in  
14 employment status. Respondent shall notify the Board, in writing, if he is terminated or  
15 separated, regardless of cause, from any nursing or health care related employment with a full  
16 explanation of the circumstances surrounding the termination or separation.

17 8. **EMPLOYMENT REQUIREMENTS AND LIMITATIONS.** Respondent shall  
18 work in his licensed capacity in the state of California. This practice shall consist of no less than  
19 six (6) continuous months and of no less than twenty (20) hours per week.

20 Respondent shall not work for a nurses' registry or in any private duty position, a temporary  
21 nurse placement agency, as a faculty member in an accredited or approved school of nursing, or  
22 as an instructor in a Board approved continuing education course except as approved, in writing,  
23 by the Board. Respondent shall work only on a regularly assigned, identified and predetermined  
24 work site(s) and shall not work in a float capacity except as approved, in writing, by the Board.

25 9. **SUPERVISION REQUIREMENTS.** Before commencing or continuing  
26 employment in any health care profession, Respondent shall obtain approval from the Board of  
27 the supervision provided to the Respondent while employed.

28 Respondent shall not function as a charge nurse (i.e., work in any healthcare setting as the

1 person who oversees or directs licensed vocational nurses, psychiatric technicians, certified  
2 nursing assistants or unlicensed assistive personnel) or supervising psychiatric technician during  
3 the period of probation except as approved, in writing, by the Board.

4 10. **COMPLETION OF EDUCATIONAL COURSE(S).** Respondent, at his own  
5 expense, shall enroll and successfully complete a course(s) substantially related to the violation(s)  
6 no later than the end of the first year of probation.

7 The coursework shall be in addition to that required for license renewal. The Board shall  
8 notify the Respondent of the course content and number of contact hours required. Within thirty  
9 (30) days of the Board's written notification of assigned coursework, Respondent shall submit a  
10 written plan to comply with this requirement. The Board shall approve such plan prior to  
11 enrollment in any course of study.

12 Upon successful completion of the course, Respondent shall submit "original" completion  
13 certificates to the Board within thirty (30) days of course completion.

14 11. **MAINTENANCE OF VALID LICENSE.** Respondent shall, at all times, maintain  
15 an active current license with the Board including any period of suspension.

16 If an initial license must be issued (Statement of Issues) or a license is reinstated, probation  
17 shall not commence until a license is issued by the Board. Respondent must complete the  
18 licensure process within two (2) years from the effective date of the Board's decision.

19 Should Respondent's license expire, by operation of law or otherwise, upon renewal or  
20 reinstatement, Respondent's license shall be subject to any and all conditions of this probation not  
21 previously satisfied.

22 12. **LICENSE SURRENDER.** During probation, if Respondent ceases practicing due to  
23 retirement, health reasons, or is otherwise unable to satisfy the conditions of probation,  
24 Respondent may surrender his license to the Board. The Board reserves the right to evaluate  
25 Respondent's request and to exercise its discretion whether to grant the request without further  
26 hearing. Upon formal acceptance of the tendered license, Respondent will no longer be subject to  
27 the conditions of probation.

28 Surrender of Respondent's license shall be considered a disciplinary action and shall



1 become a part of Respondent's license history with the Board. A licensee who surrenders his  
2 license may petition the Board for reinstatement no sooner than the following minimum periods  
3 from the effective date of the disciplinary decision for the surrender:

4 Three (3) years for reinstatement of a license surrendered for any reason other than a mental  
5 or physical illness; or One (1) year for a license surrendered for a mental or physical illness.

6 13. **VIOLATION OF PROBATION.** If Respondent violates the conditions of his  
7 probation, the Board, after giving the Respondent notice and an opportunity to be heard, may set  
8 aside the stay order and impose the stayed discipline (denial/revocation/suspension) of the  
9 Respondent's license. If during probation, an accusation or petition to revoke probation has been  
10 filed against the Respondent's license or the Attorney General's Office has been requested to  
11 prepare an accusation or petition to revoke probation against the Respondent's license, the  
12 probationary period shall automatically be extended and shall not expire until the accusation or  
13 petition has been acted upon by the Board.

14 14. **CHEMICAL DEPENDENCY SUPPORT & RECOVERY GROUPS.** Within  
15 five (5) days of the effective date of the Decision, Respondent shall begin attendance at a  
16 chemical dependency support group (e.g. Alcoholics Anonymous, Narcotics Anonymous, Nurse  
17 Support Group). Verified documentation of attendance shall be submitted by the Respondent  
18 with each written report as required by the Board. Respondent shall continue attendance in such a  
19 group for the duration of probation.

20 15. **ABSTAIN FROM CONTROLLED SUBSTANCES.** Respondent shall completely  
21 abstain from the personal use or possession of controlled substances, as defined in the California  
22 Uniform Controlled Substances Act, and dangerous drugs as defined in Section 4021 and 4022 of  
23 the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for  
24 a bona fide illness.

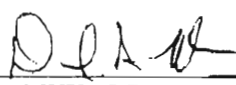
25 16. **ABSTAIN FROM USE OF ALCOHOL.** Respondent shall completely abstain  
26 from the use of alcoholic beverages and products containing alcohol.

27 17. **SUBMIT BIOLOGICAL FLUID SAMPLES.** Respondent shall immediately  
28 submit to biological fluid testing, at Respondent's cost, upon request by the Board or its designee.

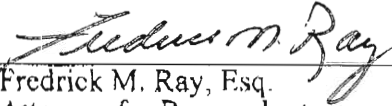
1 There will be no confidentiality in test results; positive test results will be immediately reported to  
2 the Board and the Respondent's current employer.

3 ACCEPTANCE

4 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
5 discussed it with my attorney, Fredrick M. Ray. I understand the stipulation and the effect it will  
6 have on my Applicant for Psychiatric Technician License. I enter into this Stipulated Settlement  
7 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
8 Decision and Order of the Board of Vocational Nursing and Psychiatric Technicians.

9  
10 DATED: 10-6-2010   
11 DANIEL SCOTT LYNCH  
Respondent

12 I have read and fully discussed with Respondent Daniel Scott Lynch the terms and  
13 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
14 I approve its form and content.

15 DATED: 10/6/10   
16 Fredrick M. Ray, Esq.  
Attorney for Respondent

17  
18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
20 submitted for consideration by the Board of Vocational Nursing and Psychiatric Technicians of  
21 the Department of Consumer Affairs.

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1 Dated: October 6, 2010

Respectfully Submitted,

2 EDMUND G. BROWN JR.  
3 Attorney General of California  
4 GLORIA A. BARRIOS  
5 Supervising Deputy Attorney General



6 MICHAEL BROWN  
7 Deputy Attorney General  
8 *Attorneys for Complainant*

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## **EXHIBIT A**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
4 State Bar No. 94811  
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5 Los Angeles, CA 90013  
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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues  
Against:

Case No. PT-2008-2829

**STATEMENT OF ISSUES**

13 **DANIEL SCOTT LYNCH**  
14 **321 Greenberry Drive**  
**La Puente, CA 91744**

15 **Psychiatric Technician Application**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20  
21 1. Teresa Bello-Jones, J.D., M.S.N., R.N., (Complainant) brings this Statement of  
22 Issues solely in her official capacity as the Executive Officer of the Board of Vocational Nursing  
23 and Psychiatric Technicians, Department of Consumer Affairs.

24 2. On or about April 6, 2009, the Board of Vocational Nursing and Psychiatric  
25 Technicians received an application for a Psychiatric Technician License from Daniel Scott  
26 Lynch (Respondent). On or about February 2, 2009, Respondent certified under penalty of  
27 perjury to the truthfulness of all statements, answers, and representations in the application. The  
28 application was denied on October 13, 2009.

## JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All sections references are to Business and Professions Code (Code) unless otherwise indicated.

4. Section 480 of the Code states:

"(a) A Board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action for which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

....

"(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for revocation or suspension of license;

The Board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

5. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the

1 degree of discipline or to determine if the conviction is substantially related to the qualifications,  
2 functions, and duties of the licensee in question.”

3  
4 **FIRST CAUSE FOR DENIAL OF APPLICATION**

5 **(Convictions of Substantially Related Crimes)**

6 6. Respondent is subject to denial under Code section 4521, subdivision (f),  
7 in conjunction with Code section 480, subdivision (a)(1), because Respondent has been  
8 convicted of crimes that are substantially related to the qualifications, functions, and  
9 duties of a licensed psychiatric technician. Specifically, Respondent has been convicted  
10 of the following crimes:

11 **Convictions.**

12 a. On or about January 31, 2002, after pleading nolo contendere,  
13 Respondent was convicted of Vehicle Code section 23152(b) (misdemeanor) [driving with 0.08  
14 or more of alcohol] in a criminal proceeding entitled *The People of the State of California v.*  
15 *Daniel Scott Lynch* (Sup. Ct. Los Angeles County, Case No. 2WH00013). Respondent was  
16 placed on summary probation for three years and referred to a DUI First Offender Program.

17 b. On or about April 27, 2004, after pleading nolo contendere,  
18 Respondent was convicted of Vehicle Code section 23152(a) (misdemeanor) [driving  
19 while under the influence] in a criminal proceeding entitled *The People of the State*  
20 *of California v. Daniel Scott Lynch* (Sup. Ct. Los Angeles County, Case No.  
21 4RH01793). Respondent was placed on summary probation for three years and  
22 ordered to serve 96 hours in jail, pay various fines or serve 27 days of Cal Tran  
23 service. In this matter, the court ordered bench warrants when Respondent failed to  
24 appear in court scheduled hearings. In this matter, Respondent failed to comply with  
25 required alcohol program.

26 1). The underlying circumstances to the above criminal conviction is  
27 that on or about April 5, 2004, Respondent was arrested for drunk driving and  
28

1 vandalizing a vehicle by the Los Angeles County Sheriff's Department in La Puente,  
2 California.

3 c. On or about October 6, 2004, after pleading nolo contendere, Respondent  
4 was convicted of Penal Code section 242 (misdemeanor) [battery] in a criminal proceeding  
5 entitled *The People of the State of California v. Daniel Scott Lynch* (Sup. Ct. Los Angeles  
6 County, Case No. 2RH04241). Respondent was placed on summary probation for three years and  
7 ordered to serve 30 days of Cal Tran service and attend an Anger Management Program and  
8 alcohol program.

9 1). The underlying circumstances to the above criminal conviction is  
10 that on or about June 6, 2004, Respondent was arrested for battery and vandalism by  
11 the Los Angeles County Sheriff's Department in La Puente, California, after he  
12 attacked his 10 year old niece and punched two holes in the residence.

13  
14 **SECOND CAUSE FOR DENIAL OF APPLICATION**

15 **(Committing Acts that Would Result in the Suspension**  
16 **or Revocation of a Licensee's License)**

17 7. Respondent is subject to denial under Code section 480, subdivision (a)(3),  
18 because Respondent committed acts that would have resulted in the suspension or  
19 revocation of a licensee's license as set forth in paragraph 6 above, subparagraphs (a)  
20 through (c) inclusive.

21  
22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
24 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians  
25 issue a decision:

26 A. Denying the application of Daniel Scott Lynch for a Psychiatric Technician License  
27 and;

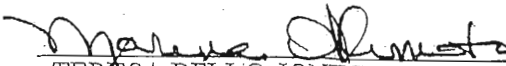
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B. Taking such other and further action as deemed necessary and proper.

DATED: February 18, 2010

  
TERESA BELLO-JONES, J.D., M.S.N., R.N.,  
Executive Officer  
for Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
Complainant

LA2008602068